THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.8829 OF 2007

Dated: 30-04-2007

Between:

Roopsan Coir Products (P) Ltd …Petitioner

And

State of Andhra Pradesh
Rep. By its Principal Secretary
And three others …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.8829 OF 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties and with their consent, the writ petition is being disposed of at this stage as the learned Special Standing Counsel for Commercial Taxes has also got instructions.

The petitioner is aggrieved of a notice, dated 09-04-2007, issued by respondent Nos.1 and 2 under Rule 14(8) of the Andhra Pradesh Value Added Tax Rules, 2005 (for short "the Rules"). This is a notice of show cause as to why the registration of the petitioner be not cancelled in view of the allegations levelled against him in the notice. The last paragraph of the notice reads as under-

> *"You are requested to file written objections if any along with documentary evidence within 10 days of date of this letter failing which your VAT registration will be cancelled without any further notice."*

The last but one paragraph of the notice reads as under

> *"You are reminded that you must not charge VAT and issue tax invoices after 30-04-2007."*

The case of the petitioner is that although the show cause notice has been issued to him and he had been given 10 days time to file his objections, but the matter already stands concluded by the

show cause notice itself by directing the petitioner not to charge VAT and not to issue any notices after 30-04-2007.

Learned Special Standing Counsel for Commercial Taxes submits that the Form VAT 125 on which the notice has been given to the petitioner has a format, which also contains a paragraph to which objection has been taken by the petitioner. We do not understand what was the necessity of filling up the blanks in Form VAT 125, which were not relevant. In any case, before considering the objections and passing the orders, in pursuance of the show cause notice, the petitioner could not be asked not to charge VAT and not to issue tax invoices after 30-04-2007. This condition cannot be sustained. Therefore, it is clarified that unless an order is passed, in terms of the show cause notice, no restriction can be imposed on the petitioner not to charge VAT. Therefore, the penultimate paragraph of the notice, dated 09-04-2007, is set aside and the writ petition is allowed to that extent. The petitioner submits that he has already filed a reply to the show cause notice. Respondent Nos.1 and 2 may now decide the matter after considering the reply. No order as to costs.

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(Bilal Nazki,J)

Dated 30th April, 2007

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(Nooty Ramamohana Rao,J)

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